1947.

File No. O Societies Regn/47

Legal **DEPARTMENT**

A **BRANCH**

Subject:— Opinions under the Societies Registration Act, 1860

File No. O Societies Regn/47
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160-A

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Office of the R.L.A.

Prima facie there appears no objection to Government giving an assurance as proposed by the Director of Public Instruction, in his letter at page 11 ante; but the Societies Registration Act, 1860, whereunder the Deccan Vernacular Translation Society is registered, appears to contain no provision empowering the Society to change its name after registration.

Remembrancer of Legal Affairs.

R.O.R. to R.D.NO. 924. Dated 25th January 1917.

SVV
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Question No. 1.

Mrs. Smart Victoria Hospital Fund, Godhra is a Society registered under the Societies Registration Act 1860 and will be governed by the provisions of that Act as its own constitution.

The Fund, having already provided and equipped a Hospital for women at Godhra, is at present maintaining the same as well as managing the same as required by the object clause. The Governing body of the Fund now proposes that for a period of 10 years the Fund should merely maintain the said Hospital by paying income of the securities to the Government who would undertake entire management thereof.

This proposal of the Governing body may amount to abridgement of the original purpose of the Fund within the meaning of section 18 of the Societies Registration Act and hence the Governing Body should submit the same to the general body of members and obtain their consent at a special meeting as provided in the said section.

Question No. 2

Under its constitution only the Governing Body of the Fund has power to make rules and hence rules approved by the Managing Committee on 21st July, 1941 at pages 5-8 ante are ultra vires the powers of the Managing Committee.

The only binding rules are, therefore, those approved by the Governing Body on 11th March 1941 at pages 21-24 ante. Under rule 4 of these Rules Assistant Collector is to be the Honorary Secretary of the Governing Body.

If the post of the Assistant Collector has been abolished the rule will have to be suitably amended by the Governing Body. But it would not be advisable to insist that District Deputy Collector should be Honorary Secretary of the Governing Body in the absence of any specific provision to that

effect.

Remembrancer of Legal Affairs.

U.N. to G. D., No.3283. Dated 3rd April, 1949.

SVV
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4 c.

Office of the R.L.A.

The Institute being an unincorporated Body, neither the Institute nor the Council will be capable of holding the property and the funds of the Institute in its own rights. It is, however, possible to execute a Joint Declaration of Trust, constituting the individual members of the Council as the Trustees with the usual provision for the succession to the office of the Trustees. In that case upon ever change in the membership of the Council a fresh Deed of Appointment of a New Trustee or Trustees will have to be executed so as to vest the property and the funds of the Institute in such new member or members

It appears, however, that the Institute with its object of the promotion of Fundamental Research in Physics, is capable of being registered as a Society under the Societies Registration Act 1860 ~~the property and~~ the property and the funds of the Institute would by reason of the provisions of Section 5 of that Act vest in the Council for the time being, and it will not be necessary to re-vest the property and the funds of the Institute in the new member or members, ever y time a change occurs in the personnel of the Council.

The B. & R Deptt, and the Trustees of Sir Dorabji Tata Institute may consider whether the latter course will not be more convenient.

Secretary of Legal Affairs.

U.O. No. to E.&R.Deptt., No. 234. Confl.,

Dated 10th June, 1947.

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4 c.

Office of the R.L.A.

It appears that by G. R. (G.D.) No. 2053/33, dated 17th April, 1947 Government has directed that nursing staffs maintained by the Nursing Associations mentioned in the accompanying statement and working in the various Government hospitals in this Province would be taken over on Government establishment subject to the same conditions of service in regard to pay, allowance, leave, provident fund etc. under the respective Nursing Associations. The N. M. Nursing Institution, Surat is one of the Nursing Association mentioned in the statement accompanying that G. R. with the result that the three nurses maintained by it at Sir Cawasji Jahangir Civil Hospital, Surat will have to be taken over on Government establishment. It appears that the N.M. Nursing Institution, Surat being a registered society, the Surgeon General has raised the following questions for consideration:

(1) Whether the Institute (i.e. Association) which is an incorporated body registered under Indian Company's Act VII of 1913 is empowered to transfer the control of the Institute to Government without legal winding of the Institute.

(2) Whether the Institute can continue to function by keeping up its status as at present but under the control of Government after the nursing staff taken over by Government.

(3) What legal formalities the Institute will have to go through for winding up of the association or for continuing its function by changing its aims and objects.

The R.L.A. is requested to advise.

The Surat Nemchand Nalapchand Nursing Institution is not an incorporated registered body under the Indian Company's Act but a society registered under the Societies Registration Act, 1860. From its Memorandum of Association it appears that the main objects of the Institution are (a) to maintain at least three nurses at the Sir Cawasji Jahangir Civil Hospital, Surat, and (b) to encourage by such means as may be thought expedient, the professional training

of nurse for the sick. After the transfer of the nurses maintained at the Sir Cawasji Jahangir Civil Hospital, Surat to the Control of Government the object (a) will cease to exist; but notwithstanding such transfer the institution can continue to carry out object (b) in which case the question of the winding up of the institution does not arise. Consequently it is for the institution to decide whether it should continue to exist and carry out object (b). If it decide to dissolve itself the course provided in section 13 of the Societies Registration Act, 1860 should be followed; but if it decides to continue to exist, it should be asked to amend its memorandum of Association by deleting object (a) after following the procedure mentioned in section 13.

If the institution so amends its Memorandum of Association there would be no objection to the institution transferring to Government the nurse maintained by it at the Sir Cawasji Jahangir Civil Hospital. Since however the transfer of nurses would not be by the operation of any law, the institution should terminate the services of the nurses by proper notice before they are taken over by Government.

Remembrancer of Legal Affairs

U.R. to L.G. Department, No. 6052.

Dated 7th July, 1947.

SVV
7/5/56
4 c.

Office of the R.L.A.

Re: Tata Institute of Fundamental Research. Societies Registration Act, 1860.

R.L.A.'s opinion No. 954-Confl. dt. 10-6-1947.

The Director's suggestion is not a new suggestion but is ex a reversion to the original rule 17 suggested by the Trustees. That rule has already been commented upon in E.& I.D. office note at page 17ante in which Secretary, E.& I.D. has also concurred. The suggestion directly contradicts Rule 17 suggested by Government, at page 29 ante, in consultation with R.P.I.

E.& I.D. will not presumably accept the Director's suggestion unless it is now considered unnecessary to have the funds and the property of the Institute vested in a separate body - the members of the Council of the Institute as provided in Rule 17 suggested by Government The Director has not categorically stated that the Trustees of Sir Dorabji Tata Trust are not permitted and the terms of their trust deed to promote a society under the Societyis Registration Act, 1960. Besides, the Director's letter contemplates the execution of a separate declaration of trust by the Trustees of the Sir Dorabji Tata Trust under which the trustees will hold the property for the purpose of the Institute. If some kind of separate arrangement is inevitable the arrongement of promoting a society as suggested by the R.L.A. is to be preferred from all points of view.

Remembrancer of Legal Affairs.

U.R. to E. & I. D. No. 9856,
dated 13th October, 1947.

GVV
7/5/56.
4 c.

Office of the R.L.A.

"Political Object"

Societies Registration Act, 1860.

Object No. 5 of the objects for which the Blind Men's Association" is established is to ~~of~~ initiate, promote and advance measures for the removal of grievances of the blind. Prima facie this object would include initiation of measures to enlist public sympathy and support in the causes of ameliorating the conditions of the blind. Assuming that this object further includes legislative measures for the relief of the blind, it cannot be said that this is a political object; for "political ~~x~~ object" means an object pertaining or relating to the policy administration or organization of Government. (see Black'Law Dictionary). Legislation for the Relief of the blind would scarcely have any connection with the policy administration or organization of Government as such. Consequently, there appears no objection to registering the Society under the ~~xxx~~ Societies Registration Act, 1860.

Remembrancer of Legal Affairs.

U.R. to F.D. No. 9730 dated the 6th October, 1956.

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